

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STACEY CHERNY, an individual, on his own	:
behalf and on behalf of all similarly situated,	:
	:
Plaintiff,	:
	:
v.	:
	:
EMIGRANT BANK, a New York State	:
Chartered Savings Bank, and	:
DOES 1 to 100, persons unknown,	:
	:
Defendants.	:
-----X	

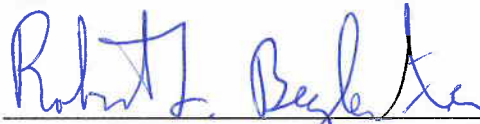
08 CV 5359 (VM)

**NOTICE OF MOTION
BY EMIGRANT BANK
TO DISMISS COMPLAINT**

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law and the Declaration of Gordon Schnell (and the exhibits thereto), the undersigned will move this Court, before the Honorable Victor Marrero, United States District Judge for the Southern District of New York, at the United States Courthouse, 500 Pearl Street, New York, New York, at a date and time to be designated by the Court, for an order, pursuant to Fed. R. Civ. P. 12(b)(6), dismissing all claims and class allegations asserted against defendant Emigrant Bank in the complaint in the

above-captioned action and for such and other further relief as the Court deems just and appropriate, including Emigrant's costs and fees incurred for this motion.

Dated: July 31, 2008
New York, New York

A handwritten signature in blue ink, appearing to read "Robert L. Begleiter", is written over a horizontal line.

Robert L. Begleiter (RB-7052)
Gordon Schnell (GS-2567)
Alissa Ifowodo (AI-3941)

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